Health Insurance Exchange
Insurance Plan and Market Organization Subgroup
Kings Inn, Pierre, SD
June 21, 2011, 1PM

Present: Randy Moses, Eric Matt, Rob Bates, Tom Bohnet, Lila Caspers, Randy Johnson, Jeff Miller, Larry Kucker, Amy Olson-Miller, Kim Perry, Sarah Perry, Darla Pollman Rogers, Sue Schaefer, Lynne Valenti, Kirk Zimmer, Sandy Zinter, Lisa Carlson, Kevin Van Dyke

The minutes from the June 14, 2011 conference call were presented to the group and unanimously approved.

Chair Randy Moses briefly summarized the discussion of the employer v. employee choice models that were discussed in more depth during the previous conference call.

Employer v. Employee Choice Model Discussion

Chair Moses provided a draft recommendation based on the decision of the group at the last meeting to recommend that employers have the choice of either the employer or employee choice models for defined contribution plans. Discussion ensued on the draft recommendation.

Kirk Zimmer wondered how the definition of small employer came into play with this recommendation. Randy Moses indicated that it does not preclude the employer from covering part time employees.

Lisa Carlson wondered how insurance companies would price products without knowing who is enrolling in them and choosing particular plans. Lynne Valenti noted that this was a hot topic in Utah. They all agreed to something they could live with after contentious debate. Her understanding is that when enrollees fill out the questionnaire, risk is assessed and the applicable premium calculated.

Lisa Carlson believed that employee choice leads to variability in billing. It would be easier to pool risk with the employer choice model, rather than the employee choice model. She was concerned there would be less rate stability with the employee choice model. Randy Moses indicated that this risk would be pooled, but rating would likely be more challenging.

Administration costs were discussed. Randy Moses and Lynn Valenti provided that the premium payments are funneled through a vendor and the carriers would get one check from all of those that selected the carrier via that vendor. Therefore administrative costs may be less than individual plans generally.

The concern was expressed that employers should not be forced to be in the exchange and that options should be made available for employers.

Splitting off part-time employees and treating them separately was discussed. Randy Moses explained that this recommendation was a way for employers to contribute some money toward health benefits for part-time employees.

Complexity and decision making for consumers was discussed. There are vendors that design questions so as to filter a consumer's interests or preferences to aid consumers in choosing an appropriate plan.

Lisa Carlson indicated that with an employee choice plan consumers would lose value added services, such as wellness plans, that can be administered cost effectively on a group basis. She also believed the cost of services would be higher when so many more plans had to be serviced. Employee choice makes it difficult for human resources people to aid employees in choosing plans.

Lisa believed that employee choice works well for employers that want to hand off health insurance to someone else for management purposes and also for employers with employees spread out across the nation.

There was concern that an employee choice model could cause adverse selection for the higher benefit plans. It was also provided that employer choice provides predictability in pricing. The same predictability in the marketplace will not be there with an employee choice model.

Kirk Zimmer indicated if most of the market goes employee choice it will look more like the individual market.

Randy Moses asked the group if the participation requirements should stay in place so it would still be more like a small group market than the individual market. There could be a requirement that no-one can sign up for the exchange unless they have more than 75% of employees participating. Participation rates would need to be enforced by the exchange in a pure employee choice state like Utah.

Lisa Carlson believed there needed to be education on the costs and benefits of moving back and forth between employer and employee choice models. She wondered how it would work if the employer moved back and forth. Kim Perry wondered if the resources were there to allow individual businesses to understand the risks involved in choosing an employee choice model.

Tom Bohnet believed small employers would be interested in providing payments to employees to choose their own health plan and administrate it. It is difficult for small businesses to administer health plans for their employees.

Lynne Valenti responded to questions regarding the defined benefit contribution in Utah. Utah chose the defined contribution model because they believed it would give consumers a monetary stake in their health care decisions.

Kim Perry wondered where the fiduciary duty would fall for ERISA purposes in an employee choice model. It was unclear at this time whether the anticipated federal regulations would address this issue

<u>Defined Contribution</u>

There was a discussion as to whether defined contribution should be the only design offered in the exchange.

Lisa Carlson wondered if this would create a dichotomy where those that choose to offer defined contribution end up on the exchange while those that do not remain in the outside market.

There was also discussion as to whether there needs to be a minimum contribution level with defined contribution plans and in particular employee choice.

Lisa Carlson believed defined contribution could contribute to a feeling of inequality in plans. Higher paid employees do not have significantly differently benefits than lower level employees at this time. A defined contribution model may allow higher paid employees to purchase significantly more generous benefit plans. She noted that this approach does help employees have more stake in the cost of health care.

Randy Moses summarized the group's feelings that the traditional choices available today should still continue in the exchange with the addition of employee choice. Potentially there could be three models through the exchange, the traditional model, defined contribution with employer choice, and defined contribution with employee choice. These plans would all be under the same rating pool.

<u>Recommendations</u>

The following recommendations, redrafted based on Randy Moses' original proposal, were offered to the group for approval after the break.

The exchange should provide to employers that choose to offer defined contribution plans to eligible employees the option of choosing either an employee choice or an employer choice method of enrollment into the exchange.

The exchange should offer employers the option to provide part-time employees, who are not eligible for coverage under the employer's health benefit plan, the option of enrollment in and contribution to coverage for those part-time employees in the American Health Benefit Exchange.

Both recommendations were discussed and unanimously approved.

Adverse Selection

A list of possible adverse selection issues compiled from Randy Moses regarding exchanges was discussed by the group. The list was based on the NAIC white paper that has been approved by the working group, but not yet the committee.

The group was tasked with working off the list and compiling items the exchange needed to address with regards to adverse selection. It will be difficult to address all the adverse selection issues, as not all regulations have been devised yet.

Randy Moses explained the list of possible adverse selection points.

Richer plans in the exchange and cheaper ones outside the exchange may create adverse selection in that older, less healthy people may opt for plans inside the exchange while healthier younger people would tend to enroll outside the exchange.

If one market (outside v. inside the exchange) has a more expansive provider network employees will choose where to shop on based on whether their preferred provider is available at network rates in the market which may steer enrollees into or out of the exchange.

Grandfathered plans and non-grandfathered plans have separate risk pools which can create adverse selection. No plans in the exchange can be grandfathered.

If agents are paid more to be outside the exchange than inside, they would be incentivized to sell plans in the outside market that offers larger commissions. If agents are rewarded for enrolling healthy people, it will likely result in adverse selection as well. Individuals could be steered to or from an exchange with differential commissions.

It could create adverse selection issues if we were to allow large employers in the exchange because of their option of self-funding. Higher risk employers may be in the exchange and the lower risk employers could self-fund.

Group plans have different regulatory requirements than individual plans. Although association plans are treated as individual plans federally, states don't always treat them that way. If association plans are exempt from some of the regulatory requirements this could create adverse selection.

Employee choice may have an adverse selection component.

If small employers have too low of an attachment point, it is no different than having health insurance with a deductible. Those plans are generally exempt from state regulation and therefore can be another source of adverse selection.

Out of state trusts can be similar to associations in their affect on adverse selection. Out-of-state trusts are sometimes exempt from regulations, but are generally subject to the same regulation in South Dakota. If carriers form these trusts and evade regulations, it can create adverse selection.

Wrapping involves buying an employer plan with a high deductible and then having a separate arrangement to cover the deductible.

Allowing a third party to pay the premiums can also create adverse selection.

Health Savings Accounts

The group discussed how health savings accounts could be used in conjunction with a health insurance exchange. It was agreed that HSAs did need to be addressed by the subcommittee.

Agent Appointments

Randy Moses advised the group how agent appointments could be handled now that the group has decided that employee choice would be an available model, and outlined the different options available. Randy Moses will send out a list of possible options to the group. This will be one of the topics for the conference call to be set up between now and the July meeting.

Enrollment/disenrollment issues with Medicaid and Private Insurance

There was concern expressed about the continuity of care for persons switching back and forth between Medicaid and private insurance. Lisa Carlson expressed and the overall group agreed that there may be some opportunities for coordinating benefits design with Medicaid benefits. Lynne Valenti will discuss the topic with Medicaid experts at the Department of Social Services. Lisa Carlson agreed to provide additional information on those types of care where NCQA provided continuity of care between plans. This will be another topic of the conference call to be held before the July meeting.

Regulation of Commissions

Randy Moses asked the group if commissions should be regulated through the exchange. Utah paid commissions per employee per month based on the level of commissions in the private market. An administration fee is used to pay vendors.

Lisa Carlson believed that the commission should be per head, not based on the benefits and expense of the plan. Otherwise, it would encourage agents to sell higher cost plans. Commission structures will likely be reviewed in light of the employee choice option.

Commissions will also be discussed during the conference call.

Carrier Certification Process

It was suggested that those certification processes such as policy and premium rate approval currently being performed by the Division of Insurance should continue to be done and then have those approvals deemed approved by the exchange. The specifics of a recommendation will be taken up at the conference call.

The meeting was adjourned at 4PM.